

**To:** Mears, Mary[Mears.Mary@epa.gov]  
**Cc:** Guerrero, Carmen[guerrero.carmen@epa.gov]; Plevin, Lisa[Plevin.Lisa@epa.gov]  
**From:** Enck, Judith  
**Sent:** Mon 11/28/2016 10:26:02 PM  
**Subject:** Re: Coal ash issue in Puerto Rico -- we did get an invite

A public fact sheet would be very useful. DECA brought 2 enforcement cases on this aes coal ash issue. If DECA can do first draft that would be great.

Sent from my iPhone

On Nov 28, 2016, at 6:19 PM, Mears, Mary <Mears.Mary@epa.gov> wrote:

FYI.

As anticipated earlier today, we have just received an invite (attached in Spanish) to testify at the Puerto Rico Senate hearing on Wednesday on the coal ash issue. See below for some recent coverage of protests today.

We plan to decline because we don't typically testify at state hearings and also this is a matter that is in the courts.

We may want to send a fact sheet, but we don't have a public fact sheet at the ready and will discuss further.

<http://blog.cleanenergy.org/2016/11/28/coal-ash-protesters-arrested-in-puerto-rico/>

## Coal ash protesters arrested in Puerto Rico

November 28th, 2016, Clean [Energy.org](http://CleanEnergy.org)

<image001.jpg>

Click for video of protesters blocking coal ash trucks in Peñuelas, PR

*This post is adapted from a November 23 press release from Ruth Santiago, Esq. and Yvette González Cuascut. 41 people were arrested on Thursday, November 24 and Puerto Ricans continued to march (link in Spanish) on Friday. We felt it important to amplify this story given the increasing concern about coal ash in the Southeast, though the news comes from a little further to the Southeast than SACE usually covers.*

Dozens of residents of Peñuelas, Puerto Rico and their supporters were arrested today [November 23] for protests against the trucking of AES Puerto Rico, L.P. coal ash waste to the Peñuelas Valley Landfill. Among those arrested is Puerto Rico Senator Maria de Lourdes Santiago. The arrests started on Monday, November 21, 2016 when 21 people were detained. Today, 41 more people were arrested and more interventions are expected.

Community members cite a municipal ordinance which prohibits use of coal ash in the town of Peñuelas as the basis for their opposition to the coal ash. Approximately 43 other municipalities in Puerto Rico have prohibited the use of coal ash as fill material at construction sites and in their landfills. The AES coal ash has been used as daily cover for garbage or just left in mounds exposed to the breeze and rain which has led to fugitive dust and water contamination.

A recent Puerto Rico Court of Appeals decision modified a previous lower court decision upholding the municipal ordinance. In a separate suit by AES against the municipalities of Humacao and Peñuelas, the United States District Court for the District of Puerto Rico determined that the municipal ordinances did not violate federal law. AES has incurred in multiple violations of illegal contaminated water discharges and has been fined by EPA on at least two occasions as recently as last year.

Since 2014, communities throughout southern and southeastern Puerto Rico have been vehemently protesting the fugitive dust and other significant negative impacts of coal ash generated by AES Puerto Rico, L.P. Dozens of truckloads per day of AES coal combustion residuals that AES refers to as “Agremax” have been transported through neighborhoods in Humacao and Peñuelas, Puerto Rico, exposing nearby residents to inhalation of fugitive dust from the coal ash. An Environmental Protection Agency (EPA) study shows that the AES coal ash contains high levels of aluminum, arsenic, boron, cadmium, chloride, chromium, fluoride, lead, lithium, molybdenum, selenium, sulfate, and thallium that can leach from the coal combustion residuals and contaminate the local environment.

AES generates over 300,000 tons of coal ash per year and over two million tons of coal ash were used as fill material at construction sites above the South Coast Aquifer in southeastern Puerto Rico. AES coal ash was deposited within a few meters of public water wells, irrigation canals, streams, farms, wetlands, beaches and other sensitive areas. The Aquifer is the sole source of potable water for approximately 53,000 residents of Salinas and Santa Isabel and many more thousands of people in the municipalities of Peñuelas, Ponce, Juana Diaz, Guayama and Arroyo, Puerto Rico. In some places, contractors to which AES provided free delivery of Agremax coal ash excavated huge holes that were filled with CCRs below the Aquifer water-table. All these communities have now come together

against AES' egregious conduct.

In the initial permits and power purchase agreement for the AES plant in Guayama, Puerto Rico, AES committed to exporting its coal combustion residuals outside Puerto Rico if it could not find a beneficial use for its coal ash waste on the island. Although the Executive Director of the Puerto Rico Electric Power Authority, Javier Quintana, acceded to an amendment to the power purchase agreement which allows for disposal of the AES coal ash in Puerto Rico, the Puerto Rico Planning Board siting consultation approval for the AES plant requires that the coal ash be either marketed for beneficial use or exported from Puerto Rico. The Planning Board Resolution provides that if a market for beneficial use is not developed, AES must export the coal ash.

The EPA Final Rule on CCRs summarizes the situation as follows:

The AES coal-fired power plant in Puerto Rico lacked capacity to dispose of their CCR on-site, and off-site landfills in Puerto Rico were prohibited from accepting CCR. In lieu of transporting their CCR off of the island for disposal, AES created an aggregate ("AGREMAX") with the CCR generated at their facility, and used the aggregate as fill in housing developments and in road projects. Over two million tons of this material was used between 2004 and 2012.

In 2011, ABC World News covered the case of AES coal ash contamination in Bokoshe, OK, where coal ash from an AES plant was dumped in an uncontrolled landfill, resulting in the community's dangerous exposure to fugitive dust. AES coal ash is also associated with contamination in the Dominican Republic and various cases of groundwater pollution. On April 4, 2016, Bloomberg News reported that AES Corporation settled a lawsuit relating to damages from coal ash which allegedly caused birth defects in children in the Dominican Republic.

The residents of the municipalities of Arroyo, Patillas, Maunabo, Yabucoa and Humacao have testified at Puerto Rico Senate hearings about the large number of truckloads of AES coal ash and the fugitive dust in their communities on their way to the landfill located in Humacao. Once there, the AES coal ash is used as daily cover and stockpiled, generating large amounts of fugitive dust which is what is apparently planned in Peñuelas.

<Convocatoria a Sesión Especial de Interpelación.pdf>